

EXHIBIT A

Declaration of David Saffron in Support of
Defendants' Opposition to Plaintiff CFTC's
Third Motion for an Order to Show Cause



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EXHIBIT A

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12 DAVID GILBERT SAFFRON and
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14 **UNITED STATES DISTRICT COURT**
15 **DISTRICT OF NEVADA**

16 COMMODITY FUTURES TRADING
17 COMMISSION,

18 Plaintiff,

19 v.

20 DAVID GILBERT SAFFRON, a/k/a DAVID
21 GILBERT, and CIRCLE SOCIETY, CORP.,

22 Defendants,

Case Number 2:19-cv-1697-JAD-DJA

23 **DECLARATION OF DAVID SAFFRON IN SUPPORT OF DEFENDANTS'**
24 **OPPOSITION TO PLAINTIFF'S THIRD MOTION FOR AN ORDER TO SHOW**
25 **CAUSE AS TO WHY DEFENDANTS SHOULD NOT BE HELD IN CIVIL**
26 **CONTEMPT FOR VIOLATIONS OF THE COURT'S ASSET FREEZE**

27 I, David Gilbert Saffron, hereby declare under oath the following:

28 1. I am over the age of 18 years and have personal knowledge of the facts
stated herein, except for those stated upon information and belief and, as to those facts,
I believe them to be true. I am competent to testify as to the facts stated herein in a
court of law and will so testify if called upon.

2. I make this Declaration in support of Defendants' opposition

1 (“Opposition”) to Plaintiff CFTC’s Third Motion for an Order to Show Cause Why
2 Defendants Should Not be Held in Civil Contempt for Violations of the Court’s Asset Freeze
3 (“Motion,” ECF No. 98) filed in the above-captioned case.

4 3. On or about December 6, 2019, the Court entered an Order granting the
5 CFTC’s Motion for Preliminary Injunction (the “PI Order”). I was not represented by
6 counsel at the time but receive a copy of the PI Order and reviewed it.

7 4. The PI Order contains an asset freeze that enjoins me and Circle Society
8 from “directly or indirectly...disposing of any of defendant’ assets” and also states that
9 “[a]ssets obtained after the effective date of this Order are not subject to the terms of
10 this Order unless they are derived from or related to the activities alleged in the
11 Complaint.” See PI Order at 4:13-14 (ECF No. 31).

12 5. It was my understanding at the time (in December 2019), and has been
13 my understanding to this day, that the quoted paragraph of the PI Order means I am
14 allowed to obtain and spend money that I receive after the PI Order was entered, as
15 long as the money is not “derived from or related to” Circle Society’s alleged activities
16 as alleged in this lawsuit. In other words, it is my understanding that the PI Order’s
17 asset freeze does not prohibit me from continuing to live my life, earn money, receive
18 money in the form of loans or gifts, and spend that money to continue to live my life
19 while this lawsuit is pending and the PI Order is in place.

20 6. I have complied with the asset freeze at all times, as all of my assets and
21 Circle Society’s assets have been frozen since the date of the Court’s initial Temporary
22 Restraining Order and subsequent PI Order.

23 7. Following the PI Order’s entry, I opened a bank account at Wells Fargo
24 with the account number xxxx-3959 (“Personal WF Account”). I opened this account to
25 keep a completely separate account in which to deposit funds to live off of. I made an
26 initial deposit of \$50, from funds not frozen and not derived from activities related to
27 this lawsuit. All of the funds that have ever been deposited into my Personal WF
28 Account were either from income earned after December 6, 2019 and/or from funds

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1 received in the form of gifts or loans, and are completely unrelated to Circle Society or
2 anything alleged in this lawsuit.

3 8. I funded my Personal WF Account largely with funds disbursed from my
4 late grandfather's estate. My brother, Adam Saffron, transferred those funds directly
5 into my account. I have also received payments into this account from individuals for
6 whom I have done consulting work.

7 9. Upon information and belief, in November 2020, the CFTC issued
8 subpoenas to various financial institutions, seeking all of my personal financial records
9 and seeking financial records from people close to me: my step-mother, my father (who
10 passed away earlier in 2020), my former attorney David Kagel, my former employer
11 Runway Beauty and its owner, Vincent Mazzotta (and his family), among others.

12 10. I did not object to the subpoenas because the injunction order states that
13 the CFTC is entitled to my records and I had no problem with them obtaining those my
14 records. At the CFTC's request, I signed a document entitled "Consent to Release of
15 Financial Records," and I understood that doing so was in compliance with my
16 obligations under the PI Order to facilitate production of records to the CFTC.

17 11. I have known Vincent Mazzotta ("Mazzotta") since 2012, when I first met
18 him and began working as a sales representative for his company, Runway Beauty, Inc.
19 ("Runway"). I have worked for Runway off and on since that time. In 2019 when I was
20 in need of income due to this lawsuit, I reached out to Mazzotta for work. He gave me
21 the opportunity to work for Runway again, which I did throughout 2020.

22 12. Mazzotta set me up with a company card from Runway, which I used for
23 expenses to be charged from the Runway's account with Wells Fargo ("Runway WF
24 Account") as authorized by Runway. The CFTC has alleged that I have used the
25 Runway WF Account to move assets in violation of the PI Order. That allegation is
26 simply not true and is completely unsupported by my financial records as well as
27 Runway's. I received an IRS Form 1099 for the income I received from Runway in 2020.

28 13. David Kagel has been a friend of my family for many years, and I have

1 known him for decades. He has been my attorney over the years and has provided
2 legal advice and services on various issues for me.

3 14. After the PI Order was entered and I was trying to figure out how I
4 would survive (pay rent, purchase food, and cover other living expenses, and so on
5 without violating the PI Order's asset freeze), I asked Kagel for financial assistance.
6 Since December 2019, Kagel has sent me money on various occasions to help me pay
7 for living expenses. The payments from Kagel are loans that I plan to repay to him
8 when I am able. Among the payments he has advanced to me, he sent a payment to the
9 Shumway Van law firm to pay for an attorney, since I had been without an attorney in
10 this case at various times and the CFTC indicated I was not able to hire counsel without
11 violating the PI Order.

12 15. In addition to my Personal WF Account, I have also utilized a
13 cryptocurrency-backed debit card called a "BlockCard," issued by the company Ternio.
14 All funds deposited into my BlockCard account came from income earned in 2020 (i.e.
15 after the PI Order was entered) and are completely separate and unrelated to anything
16 to do with Circle Society or the allegations in this lawsuit.

17 16. In February 2021, I tried to use my BlockCard to pay for a routine
18 purchase, when I learned that the card had been disabled/frozen. I contacted
19 BlockCard and learned that they froze the account at the CFTC's direction, having
20 received Court documents from this matter and being instructed by the CFTC to freeze
21 the assets in my account. I had approximately \$11,000 in my BlockCard account at the
22 time, which I needed to use to pay rent. I have been unable to access these funds since
23 the CFTC instructed BlockCard to freeze the account.

24 17. CFTC states in its Motion, without providing any evidence, that it has
25 "serious concerns as to whether Defendants have retained counsel using assets that
26 have been frozen in violation of the Courts Orders." (ECF 98 at p. 7) This concern is
27 unfounded and has been a theme the CFTC continues to use to threaten and/or scare
28 lawyers from being able represent me. Defendants have not utilized any frozen funds

1 to retain counsel. The Court previously advised me in open court that I am allowed to
2 retain counsel (ECF 68-1) after I said that I understood the asset freeze prevented me
3 from hiring counsel. (My prior misunderstanding was based on what my prior counsel
4 were told when threatened by the CFTC).

5 I declare under penalty of perjury under the laws of the United States of
6 America that the foregoing is true and correct.

7 Dated this 2nd day of March, 2021.

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DAVID SAFFRON, Declarant

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